

# Sexual Misconduct Policy

## Sancta Sophia College

### 1. Policy

Sancta Sophia College recognises that everyone in our community has the right to live, study and work in a safe and supportive environment. All members of Sancta Sophia College (including students, staff, guests and Council members) have a role in creating and maintaining a safe and respectful environment.

Any form of sexual misconduct or sexual harassment is a breach of Sancta Sophia College rules and Code of Conduct, and is not tolerated.

### 2. Scope

This policy applies to the Council members, staff, students (residential and associate) and guests of Sancta Sophia College. It covers behaviours that constitute sexual misconduct and sexual harassment, and discusses support options, disclosures and complaints.

### 3. Definitions of terms

#### 3.1. Consent

Sexual activities with another person must be by free and voluntary agreement. All parties to any sexual activity must take steps to confirm that consent exists.

A person cannot consent to sexual activity when they are:

- asleep or unconscious;
- significantly intoxicated or affected by drugs;
- intimidated, coerced or threatened;
- unclear about the identity of the person performing the act;
- tricked into doing something they do not want to do;
- detained or held against their will;
- pressured to engage in the sexual act by another person who is in a position of power or authority over them.

Anyone engaging in a sexual act with another person must ensure that consent is clear and obvious. The fact that a person does not say 'no' to, or does not physically resist, a sexual act does not mean they consent to it.

A person is free to withdraw their consent at any time prior to or during a sexual act.

Consent must be present for every sexual act. If someone consents to one sexual act, it does not mean they have consented to others.

#### 3.2. Sexual misconduct

The term sexual misconduct is used in this policy to cover a range of unacceptable sexual and physical behaviours. Sexual misconduct includes, but is not limited to, legal definitions of sexual assault, and may or may not constitute criminal conduct.

Sexual misconduct means any sexual act that a person does not consent to, including unwanted intercourse, oral sex, and sexual touching. Sexual misconduct also encompasses other non-consensual sexual acts such as showing of genitals (flashing); sending unwanted sexualised still or moving images; masturbation or pretended masturbation in front of another person without their consent. Other examples of sexual misconduct include voyeurism (observing a person who is in a state of undress, using the toilet, showering or bathing or engaged in a sexual act, without their consent, for the purpose of obtaining sexual arousal or sexual gratification).

Sexual misconduct also includes recording or distributing an intimate image of another person without their consent, whether in person or by electronic, digital or other means, including still or moving images.

A person will be considered to have engaged in sexual misconduct towards another person if the other person did not consent to the first person's actions and the first person:

- knew that the other person did not consent;
- was reckless as to whether the other person consented; or
- should reasonably have known, having regard to all the circumstances, that the other person did not consent.

Attempting or threatening to engage in any of the above conduct may constitute sexual misconduct.

### **3.3. Sexual harassment**

Sexual harassment is any unwanted or unwelcome sexual behaviour, which makes a person feel offended, humiliated or intimidated.

Sexual harassment can be obvious or indirect, physical or verbal, repeated or one-off.

Sexual harassment may include:

- unwelcome touching, hugging or kissing;
- inappropriate staring or leering;
- sexual gestures;
- sexually suggestive comments or jokes;
- displaying, sending or requesting sexually explicit pictures or posters;
- giving sexually explicit gifts;
- making or distributing a sexually explicit audio recording or photo-shopped image of another person;
- repeated or inappropriate invitations to go out or 'hook up';
- intrusive questions about a person's private life or physical appearance;
- requests or pressure for sexual intercourse, or other sexual acts.

Sexual harassment can occur in person or through email, text, messaging, social media posts and other forms of electronic communication.

Acts of sexual harassment may constitute sexual misconduct.

#### **4. Support available**

Students who have experienced sexual misconduct or sexual harassment are encouraged to seek assistance and support. Such support is available within Sancta, at the University of Sydney, and via a range of health and community services. Sancta staff and Resident Assistants (Ras) are trained as first responders and can assist students who have experienced sexual misconduct to access professional help when ready and to explore options to complain about a sexual misconduct incident.

Refer to “Navigating the experience of sexual assault: guidance and support for Sancta students” on the Student Portal for further information about available support.

#### **5. Deciding to make a disclosure or complaint**

Sancta recognises and supports the rights of people who have experienced sexual misconduct or harassment to take time to determine the best course of action for them.

It is common for people who have experienced sexual misconduct or harassment to need time to decide if they want to take action in regard to the matter.

While Sancta encourages anyone who has experienced sexual misconduct or harassment to take action, it will support people to make their own decisions about this, in their own time.

If and when wanted, Sancta will provide support for a person who has experienced sexual misconduct or harassment to determine whether they would like to follow up with Sancta or another institution (e.g. the University or NSW Police) by making a disclosure or a complaint/report.

##### **5.1. Disclosures**

A disclosure is information provided to Sancta (or the University or Police) about an incident or person where the person making the disclosure does not wish for follow-up action to be taken, or if they are undecided. A disclosure can assist a person to access help and support.

At Sancta, disclosures may be made to the Principal or Vice Principal, in person, over the phone or in writing.

While disclosures may be made anonymously, it is recommended that the person making the disclosure makes themselves known so as to ensure that support and help is provided in the right way.

A confidential record of the disclosure will be kept on file. A person who has made a disclosure, may later make a complaint regarding the same incident.

##### **5.2. Complaints**

A complaint (or report) is information provided about an incident or person where the person making the complaint wants action to be taken. A complaint cannot be made anonymously.

#### **6. When a complaint is made against a person at Sancta**

Sancta is committed to responding to incidents of sexual misconduct and sexual harassment in a manner that is balanced, fair, and trauma informed. Sancta will work with the complainant and respondent in a sensitive and confidential manner.

Complaints at Sancta will be responded to or investigated in accordance with the Sancta Complaints and Investigations Procedure.

Complaints may be made to the Principal or Vice Principal, in person or in writing.

A student who has made a complaint of sexual misconduct is free to withdraw it at any time.

## **7. Disciplinary action and appeals**

When an allegation of sexual misconduct or sexual harassment is upheld, Sancta will impose disciplinary action as per the Complaints and Investigations Procedures.

Disciplinary action includes, but is not limited to:

- reprimand;
- warning;
- removal of rights or privileges;
- moving of rooms;
- suspension;
- expulsion.

The wishes of the victim are of consideration when determining disciplinary action.

Appeals against findings or disciplinary action may be made in accordance with the Complaints and Investigations Procedure.

## **8. Sexual misconduct or harassment involving people outside the Sancta community**

Should a Sancta student raise an allegation of sexual harassment or sexual assault against a person outside the Sancta community, Sancta will support the student to utilise such policies or avenues available to them, such as:

- university policies and procedures;
- other College policies and procedures;
- police reporting etc.

Should an allegation against a Sancta student be raised by a person external to the Sancta community, Sancta will respond to reasonable requests for information within the limits of privacy legislation from NSW Police, the University of which the student is a member, or other institution.

## **9. Confidentiality**

Generally speaking, Sancta will keep discussions, disclosures and complaints of sexual misconduct or harassment confidential.

In some limited circumstances, Sancta may need to report an incident of sexual assault to the Police against a student's wishes, to ensure the safety of that student or other members of the College or wider community.

Decisions to share information without the consent of the victim may only be made by the College Principal. In such circumstances, the victim will be informed and given every possible support by Sancta.

### 10. Resources available to complainants and respondents

The College Principal, Vice Principal, Dean of Students and Resident Assistants (RAs) are provided with First Responder training each year to assist them to support victims of sexual misconduct, harassment and assault. First Responders are not counsellors, but are trained to provide an appropriate initial response. They will listen without judgement, provide support, respect any decisions for action and guide victims to the right services.

After hours, students can call the RA Duty phone, Principal or Vice Principal directly if required:

Duty RA: 0419 479 832

Principal (Fiona Hastings): 0418 459 583

Vice Principal (Brigid Carrigan): 0447 821 371

#### *Resources offered by the University of Sydney*

Campus Security	9351 3333	24 hours
Confidential helpline (for sexual assault)	1800 SYD HLP 1800 793 457	24 hours
Counselling and Psychological Services	8627 8433	9am – 5pm Monday to Friday Jane Foss Russell Building
University Health Services	9351 3484	8:30am – 5:30pm Monday to Friday Wentworth Building
Student Support Services	8627 6808 or email <a href="mailto:safer-communities.officer@sydney.edu.au">safer- communities.officer@sydney.edu.au</a>	8:30am – 5:30pm Monday to Friday

#### *Other resources*

NSW Rape Crisis Centre	1800 424 017 (24 hours)
1800RESPECT <a href="http://www.1800respect.org.au">www.1800respect.org.au</a>	1800 737 732 (24 hours)

Royal Prince Alfred Hospital Sexual Assault Service (Ground Floor, KGV Building, RPAH)	9515 9040 (Monday to Friday business hours) 9515 6111 (after hours)
NSW Police Newtown Police 222 Australia St, Newtown, 2042 Glebe Police 1 Talfourd St, Glebe, 2037	Emergency: 000 9550 8199 9522 8099

## 11. Links to other Policies and documents

- *Sancta Sophia College Complaints and Investigations Procedure*

Refer to “Navigating the experience of sexual assault: guidance and support for Sancta students” on the Student Portal for further information about available support.